

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'C' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.3740/Del/2015
Assessment Year: 2005-06

Sh. Sujeet Kumar, House No.13, Bank Colony, Delhi Road, Hisar.	Vs.	ITO, Haryana
PAN :AMSPK9067F		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Sandeep Mishra, Sr. DR

Date of hearing	29.11.2023
Date of pronouncement	07.12.2023

ORDER

PER SAKTIJIT DEY, VICE PRESIDENT

This is an appeal by the assessee against order dated 31.03.2015 of learned Commissioner of Income Tax Appeals), Hissar, for the assessment year 2005-06.

2. When the appeal was called out, none appeared on behalf of the assessee despite notice. Even, there is no application seeking adjournment. On perusal of record, it is observed that though, the appeal has been listed on multiple occasions, however, assessee

never cared to appear. Due to repeated non-appearance of the assessee, the appeal was earlier dismissed for non-prosecution vide order dated 04.10.2014. Subsequently, based on a miscellaneous application filed by the assessee, the appeal order was recalled and appeal was restored to its original number. However, even after the restoration of the appeal, the assessee has never appeared. The last notice sent to the assessee by speed post has returned back unserved with the postal remark that “premises was found to be locked”. Since, there is absolute lack of interest and inquiry by assessee regarding the appeal filed by him, it can be safely assumed that the assessee is no more interested in prosecuting the appeal. Therefore, we proceed to dispose of the appeal ex-parte qua the assessee after hearing learned Departmental Representative and based on materials available on record.

3. Briefly the facts are, the assessee is a resident individual and carries on his business of running coaching centre through his proprietary concern, M/s. Fame Institute at Hisar. In course of a survey action on the assessee, it was found that he was not maintaining its proper books of account for his business. Further, cash amounting to Rs. 25,000/- was found and inventory was

prepared. Some other documents were also impounded from his business premises. Based on such information found at the time of survey, assessment proceeding was initiated. As observed by the Assessing Officer, the assessee did not comply with any of the notices issued under section 142(1)/143(2) of the Act. Therefore, the Assessing Officer was compelled to complete the assessment ex-parte to the best of his judgment by invoking the provisions of section 144 of the Act. While doing so, he made a number of additions resulting in determination of total income of Rs. 50,11,280/-. The assessee contested the aforesaid additions before learned first appellate authority.

4. After considering the submissions of the assessee, learned first appellate authority granted partial relief. Still aggrieved, the assessee has come before the Tribunal.

5. Ground no. 1 is general in nature, hence does not require adjudication.

6. In ground nos. 2.1 and 2.2, the assessee has challenged the validity of the assessment order passed under section 144 of the Act and further has raised the issue of Commissioner (Appeals) not making available certain certified copies.

7. Having considered the submissions of learned Departmental Representative, we do not find any merit in the grounds raised. Accordingly, this ground is dismissed.

8. In ground nos. 3 and 4, the assessee has challenged addition of Rs. 10,42,100/-.

9. Briefly the facts are, in course of survey, cash of Rs. 25,000/- was found in the business premises along with certain documents. Statements of certain employees were also recorded. As per the impounded documents, the fee received by the assessee in financial years 2004-05 and 2005-06 was amounting to Rs.1.6 croes. Whereas, in the return of income filed for relevant assessment years, the assessee had shown meager receipts. When such fact was furnished to the assessee vide letter dated 11.11.2005, the assessee offered additional income of Rs.80,00,000/- over and above the regular income for the assessment year 2006-07. In the original return of income, the assessee had declared income of Rs.1,03,552/-, which subsequently after survey was revised by offering income of Rs.20,90,215/-. While completing the assessment, the Assessing Officer added an amount of Rs.19,81,800/- towards unaccounted

receipts from coaching centre. While deciding the appeal, learned first appellate authority reduced the addition to Rs.10,42,100/-.

10. Having considered the submissions of learned Departmental Representative and perused the materials on record, we find the addition made is based on the documents impounded at the time of survey operation. As observed by learned first appellate authority, as per the impounded documents, the total gross receipts are to the tune of Rs.84,65,050/-. Since, mistakenly an amount of Rs.9,39,700/- was treated as part of such gross receipts over and above the amount of Rs.84,65,050/-. The learned first appellate authority granted relief to that extent. No material has been brought on record by the assessee to establish that the aforesaid factual finding of learned first appellate authority is perverse. Accordingly, we do not find merit in the grounds raised. These grounds are dismissed.

11. In ground nos. 5 and 6, the assessee has challenged the addition of Rs. 2,45,000/- made under section 68 of the Act.

12. Briefly the fact are, in course of assessment proceedings, the Assessing Officer noticed that the assessee has shown gift of Rs. 2,50,000/-, allegedly received from father-in-law. When the assessee was called upon to prove the identity, creditworthiness

and genuineness of the gift with cogent evidence, the assessee failed to do so. Therefore, the Assessing Officer treated the amount as unexplained cash credit under section 68 of the Act and added back to the income of the assessee. In absence of any credible evidence, learned first appellate authority confirmed the addition.

13. Having considered the submissions of learned Departmental Representative that the assessee has not furnished any cogent evidence to prove the alleged receipt of gift from father-in-law, we decline to interfere with the decision of learned first appellate authority.

14. In ground no. 7, the assessee has challenged the disallowance of expenses amounting to Rs. 1,18,780/-.

15. Having considered the submissions of learned Departmental Representative and perused the materials on record, we find that the assessee has claimed advertisement expenses of Rs.11,87,802/-. Since, the assessee failed to furnish complete bills and vouchers relating to such expenses, the Assessing Officer disallowed 25% out of such expenses.

16. While considering the issue in appeal, learned first appellate authority restricted the disallowance to 10% of the expenses

claimed. In our view, when the assessee has failed to furnish the supporting evidences in respect of the expenses, learned first appellate authority was justified in restricting the disallowance to 10% of the total expenses claimed, which is reasonable. This ground is dismissed.

17. In ground no. 8, the assessee has challenged disallowance of depreciation amounting to Rs.50,946/-.

18. Having considered the submissions of learned Departmental Representative and perused the materials on record, we find that the assessee had claimed depreciation by showing certain addition to new assets. As observed by learned first appellate authority, the assessee failed to furnish the original bills in respect of addition made to library. In our view, in absence of supporting evidence, assessee's claim of depreciation in respect of additions made to library was rightly rejected. This ground is dismissed.

19. The rest of the grounds raised are either consequential or are of general nature, hence, do not require adjudication.

20. In the result, the appeal is dismissed.

Order pronounced in the open court on 7th December, 2023

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 7th December, 2023.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi